

PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

Name HUFF DEMETRIUS D.
 (Last) (First) (Initial)

Prisoner Number J-33362

Institutional Address CTF-SOLEDAD, P.O. BOX 689, Soledad, Ca. 95068

FILED

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

FEB 20 2008

DEMETRIUS D. HUFF
 (Enter the full name of plaintiff in this action.)

vs.

B. CURRY, WARDEN, et al.

(Enter the full name of respondent(s) or jailor in this action)

RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 AMENDED PETITION

Case No. CV 08 0297PJH
 (To be provided by the clerk of court)

**PETITION FOR A WRIT
 OF HABEAS CORPUS**

E-filing

Read Comments Carefully Before Filling In

When and Where to File

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

Who to Name as Respondent

You must name the person in whose actual custody you are. This usually means the Warden or jailor. Do not name the State of California, a city, a county or the superior court of the county in which you are imprisoned or by whom you were convicted and sentenced. These are not proper respondents.

If you are not presently in custody pursuant to the state judgment against which you seek relief but may be subject to such custody in the future (e.g., detainees), you must name the person in whose custody you are now and the Attorney General of the state in which the judgment you seek to attack was entered.

A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

1. What sentence are you challenging in this petition?

(a) Name and location of court that imposed sentence (for example; Alameda County Superior Court, Oakland):

Riverside Superior Court Riverside County

Court

Location

(b) Case number, if known CR47285

(c) Date and terms of sentence 9/9/94 - 15 years to life

(d) Are you now in custody serving this term? (Custody means being in jail, on parole or probation, etc.) Yes xx No

Where?

Name of Institution: CTF Soledad

Address: P.O. Box 689, Souldad, Calif. 93960

2. For what crime were you given this sentence? (If your petition challenges a sentence for more than one crime, list each crime separately using Penal Code numbers if known. If you are challenging more than one sentence, you should file a different petition for each sentence.)

Penal Codes 187 and 159

3. Did you have any of the following?

Arraignment: Yes xx No

Preliminary Hearing: Yes xx No

Motion to Suppress: Yes xx No

4. How did you plead?

Guilty _____ Not Guilty xx Nolo Contendere _____

Any other plea (specify) _____

5. If you went to trial, what kind of trial did you have?

Jury XX Judge alone _____ Judge alone on a transcript _____

6. Did you testify at your trial? Yes _____ No xx

7. Did you have an attorney at the following proceedings:

(a) Arraignment Yes xx No

(b) Preliminary hearing Yes xx No

(c) Time of plea Yes xx No

(d) Trial Yes xx No

(e) Sentencing Yes xx No

(f) Appeal Yes xx No

(g) Other post-conviction proceeding Yes xx No

8. Did you appeal your conviction? Yes xx No

(a) If you did, to what court(s) did you appeal?

Court of Appeal Yes xx No

Year: _____ Result: _____

Supreme Court of California Yes xx No

Year: _____ Result: _____

Any other court Yes xx No

Year: _____ Result: _____

(b) If you appealed, were the grounds the same as those that you are raising in this

1 petition? Yes _____ No xx
 2 (c) Was there an opinion? Yes _____ No xx
 3 (d) Did you seek permission to file a late appeal under Rule 31(a)?
 4 Yes _____ No xx

5 If you did, give the name of the court and the result:
 6 _____
 7 _____

8 9. Other than appeals, have you previously filed any petitions, applications or motions with respect to
 9 this conviction in any court, state or federal? Yes _____ No xx

10 [Note: If you previously filed a petition for a writ of habeas corpus in federal court that
 11 challenged the same conviction you are challenging now and if that petition was denied or dismissed
 12 with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit
 13 for an order authorizing the district court to consider this petition. You may not file a second or
 14 subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28
 15 U.S.C. §§ 2244(b).]

16 (a) If you sought relief in any proceeding other than an appeal, answer the following
 17 questions for each proceeding. Attach extra paper if you need more space.

18 I. Name of Court: SUPERIOR COURT OF CALIFORNIA
 19 Type of Proceeding: HABEAS PETITION
 20 Grounds raised (Be brief but specific):
 21 a. DUE PROCESS - LIBERTY INTEREST
 22 b. PRIOR CRIMINALITY
 23 c. GRAVITY OF THE CRIME
 24 d. _____

25 Result: DENIED Date of Result: 11/14/06

26 II. Name of Court: CALIFORNIA COURT OF APPEALS
 27 Type of Proceeding: HABEAS PETITION
 28 Grounds raised (Be brief but specific):

1 a. DUE PROCESS - LIBERTY INTEREST

2 b. PRIOR CRIMINALITY

3 c. GRAVITY OF THE CRIME

4 d.

5 Result: Denied Date of Result: 2/21/07

6 III. Name of Court: CALIFORNIA SUPREME COURT

7 Type of Proceeding: HABEAS PETITION

8 Grounds raised (Be brief but specific):

9 a. DUE PROCESS - LIBERTY INTEREST

10 b. PRIOR CRIMINALITY

11 c. GRAVITY OF THE CRIME

12 d.

13 Result: Denied Date of Result: 10/17/07

14 IV. Name of Court:

15 Type of Proceeding:

16 Grounds raised (Be brief but specific):

17 a.

18 b.

19 c.

20 d.

21 Result: Date of Result:

22 (b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

23 Yes No XX

24 Name and location of court:

25 B. GROUNDS FOR RELIEF

26 State briefly every reason that you believe you are being confined unlawfully. Give facts to
27 support each claim. For example, what legal right or privilege were you denied? What happened?

28 Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: The Board has repeatedly denied petitioner parole for the
6 crime and unchanging factors.

7 Supporting Facts: On 12-13-05 Petitioner attended his second parole
8 consideration hearing where the Board denied parole. Stating:"...you
9 are not suitable for parole, and would pose an unreasonable risk of
10 danger to society or a threat to public safety if released..."

11 Claim Two: The Boards conclusion that petitioner currently poses a
12 threat to public safety was not supported by the record.

13 Supporting Facts: The Boards conclusion, at the 12/13/05 hearing, that
14 petitioner currently poses a threat to public safety was not
15 supported by the record and is refuted by California code of
16 regulations, title 15, section 2402.

17 Claim Three:

18
19 Supporting Facts:

20
21
22
23 If any of these grounds was not previously presented to any other court, state briefly which
24 grounds were not presented and why:

1 List, by name and citation only, any cases that you think are close factually to yours so that they
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning
3 of these cases:

4 BIGGS v TERHUNE, 334 F.3d 910, 916 (9th Cir. 2003)

5 ROSENKRANTZ v MARSHALL, 444 F.2upp.2d 1063, 1084(C.D. Cal 2006)

6 HAYWARD v MARSHALL, 2008 DJDAR 93

7 Do you have an attorney for this petition?

Yes _____ No X

8 If you do, give the name and address of your attorney:

9 _____
10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12
13 Executed on

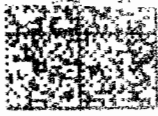
Feb. 14, 2008

14 Date

Hemetrius D. Huff

Signature of Petitioner

15
16
17
18
19
20 (Rev. 6/02)



Demetrius D. Huff #J-33362

CTF

FW-215LOW

P.O. BOX 689

Soledad, Ca. 93960

U.S. District Court
Northern District
450 Golden Gate
San Francisco, Ca

92